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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,440	11/06/2003	Kazumi Tanaka	396.43260X00	7610

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EXAMINER

HAMPTON HIGHTOWER, PATRICIA

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/701,440

Applicant(s)

TANAKA ET AL.

Examiner

Patricia Hightower

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133); Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 September 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-28 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

***Response to Amendment***

In view of the applicants' response filed September 9, 2005 the rejection of the claims under 35 USC 112, second paragraph has been withdrawn and the rejection of the claims under the judicially-created doctrine of obviousness-type double patenting over USP 6,303,741 has been withdrawn because it does not teach as instantly claimed a production process of polyamide including estimation of properties of the polyamide being produced by melt polymerization or continuing the melt polymerization in view of various estimations.

However, the claims are subject to a new ground of rejection under 35 USC 102(b) as anticipated by Tanaka (USP 6,303,741).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-28 are newly rejected under 35 U.S.C. 102(b,e) as being anticipated by Tanaka (USP 6,303,741).

Tanaka (USP 6,303,741) discloses a solid phased-polymerized medium- to high-viscosity polyamide containing gels or fish eyes in small amounts and having a uniform

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degree of polymerization component composed mainly of m-xylylenediamine and a dicarboxylic acid component composed mainly of adipic acid; wherein the solid phase-polymerized polyamide having specific range of relative viscosity and number average molecular weight, which is produced by solid phase polymerization of a melt-polymerized polyamide composed mainly of m-xylylenediamine and a carboxylic acid component composed mainly of adipic acid and having a specific relative viscosity and a specific end group balance, is a medium to high-viscosity, solid phase-polymerized polyamide in which a high molecular weight (increase in viscosity) is achieved mainly by linear molecular growth due to amide bond formation during the solid phase polymerization and the amounts of gels and fish eyes is extremely small. See col. 5, lines 15-58,60-66; col. 6, lines 1- et.seq.; col. 7, lines 1-67; col. 8, lines 1-67; cols. 9-12; the examples and the claims; col. 2, lines 63-67; col. 3, lines 1-61; abstract.

Applicant's arguments with respect to claims 1-28 have been considered but are moot in view of the new ground(s) of rejection.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. These references are cited to show the state of the art of method of producing polyamides; Tanaka, Hewel and Presenz'477.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia Hightower whose telephone number is (571) 272-1073. The examiner can normally be reached on M-F from 9:30 A.M. - 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patricia H. Hightower  
Primary Examiner  
Art Unit 1711

P. Hightower:ph  
November 26, 2005